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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/561,485	08/28/2006	Marc Munnes	0157755-0250	2292

28524 7590 05/01/2009  
SIEMENS CORPORATION  
INTELLECTUAL PROPERTY DEPARTMENT  
170 WOOD AVENUE SOUTH  
ISELIN, NJ 08830

EXAMINER
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REDDIG, PETER J

ART UNIT	PAPER NUMBER
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1642

MAIL DATE	DELIVERY MODE
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05/01/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**UNITED STATES DEPARTMENT OF COMMERCE****U.S. Patent and Trademark Office**

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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
10561485	8/28/2006	MUNNES ET AL.	0157755-0250

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**EXAMINER**

PETER J. REDDIG

**ART UNIT****PAPER**

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20090430

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**Commissioner for Patents**

The reply filed on March 20, 2009 is not fully responsive to the prior Office Action because of the following omission(s) or matter(s): Applicants have not clearly elected the species from the species groups A and B for the elected Group 1, claims 1, 5-10 and 16-18, in part, as recited in the Office Action of January 22, 2009. See 37 CFR 1.111. Applicants argue that they believe that no further election of species is necessary based on the amendment to the claims, which now recite the species of SEQ ID NOS: 51, 87, 159 and 477. Applicants' arguments are not found persuasive, because the claims are still drawn to additional marker genes in Table 2, see claim 16. Thus, it is not clear what markers Applicants intended to elect for species A. Additionally, Applicants have not made an election for species B for determining the expression level of the markers as contemplated in the filed specification.

Applicants traverse the Restriction Requirement, because the claims of the present application relate to a single inventive concept under PCT Rule 13.1. Applicants argue that in particular, each of the claims relates to the single inventive concept which includes determining the pattern of expression levels of SEQ ID NOS: 51, 87, 159 and 477 or kits which include primers and probes suitable for marker genes having SEQ ID NOS: 51, 87, 159 and 477.

Applicants' arguments are not found persuasive because the claims are still drawn to multiple methods of use, see previously set forth Groups 1 and 3. Allowed combinations do not include a product and multiple methods of using said products, as claimed in the instant application, as previously set forth. Accordingly, the claims are not so linked as to form a single general inventive concept and the finding of lack of unity is proper.

Since the above-mentioned reply appears to be bona fide, applicant is given ONE (1) MONTH or THIRTY (30) DAYS from the mailing date of this notice, whichever is longer, within which to supply the omission or correction in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a).

/Peter J Reddig/  
Examiner, Art Unit 1642